

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4515 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GIRDHARLAL TENUMAL MOTWANI

Versus

STATE OF GUJARAT

Appearance:

MR JS YADAV for Petitioner
Mr. Y.F,Mehta APP for Respondent No. 1
MR DN TRIVEDI for Respondent No. 2

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 05/11/96

ORAL JUDGEMENT

Rule.

Girdharlal Tenumal Motwani has filed the present petition seeking to quash the cri. case No. 1693/95 filed by the respondent in the court of the learned JMFC,

Vadodara.

2. The respondent no.2 has filed this cri. case no.1693/95 alleging therein that the heirs and relatives named in the complaint were treated with cruelty and there were also dowry demands and misappropriation of her Streedhana property. After recording the statement of the complainant who has filed the present complaint, the learned JMFC has passed an order to issue process against the present petitioner and other accused. The order reads as under:

"Complaint to be registered under section 498-A, 406,323,506(2),114 IPC. Dowry Act sections 4 & 7 issue against all the accused returnable on 26.6.1995."

3. It seems that the learned Magistrate has passed an order to issue process without application of his mind. He has not read the averments made by the complainant in her complaint. As per her averments made by the complainant in her complaint at Ahmedabad where the accused are residing while she was residing in her matrimonial house. As per her accusation also the property alleged to have been misappropriated was at Ahmedabad and that misappropriation has also taken place at Ahmedabad as per her complaint. Thus the averment made in her complaint clearly discloses and show that all the alleged offences had taken place at Ahmedabad. Therefore, in the circumstances the learned Magistrate had no jurisdiction to entertain the said complaint and to issue process. After reading the complaint he ought to have returned the complaint back to the complainant under section of 201 Cr.P.C. for presentation to the proper court. As the order in question has been passed by him without having jurisdiction for taking cognizance of the offence alleged in the complaint. Said order of issue of process passed by the learned JMFC, Vadodara in Cri. Case no. 1693/95 is without jurisdiction, illegal and invalid. However I direct the learned Magistrate to issue notice to the complainant and to return the complaint to the complainant for presentation to the proper court as per the provisions of section 201 Cr.P.C. The matter is disposed of accordingly. Rule made absolute.

(S.D.Pandit.J)